



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

1595 Wynkoop Street  
Denver, CO 80202-1129  
Phone 800-227-8917  
[www.epa.gov/region8](http://www.epa.gov/region8)

Ref: 8ARD-PM

Darla Potter  
Air Quality Resource Manager  
Air Quality Division  
Wyoming Department of Environmental Quality  
200 West 17<sup>th</sup> Street  
Cheyenne, Wyoming 82002

Re: Wyoming Department of Environmental Quality (WDEQ) Exceptional Events Initial  
Notification dated February 10, 2020

Dear Ms. Potter:

This letter is in response to the exceptional events initial notification dated February 10, 2020 (Initial Notification), submitted by the WDEQ – Air Quality Division (AQD), which requested that the Administrator make the determination under 40 CFR 50.14 (a)(1)(i)(F) that the EPA will agree to review exceptional event demonstrations for the referenced events. The notification covered high wind dust PM<sub>10</sub> potential exceptional event exceedances recorded at the Black Butte Mine on February 3, 4 and 15, 2018 and September 24, 2018; the Black Thunder Mine on March 5, 2018; Genesis Alkali Westvaco on April 2, 2018; Wyodak Resources on May 17, 2018; and Ciner Wyoming on November 2, 2018.

In 2016, the EPA adopted revisions to the “Treatment of Data Influenced by Exceptional Events; Final Rule” (81 Fed. Reg. 68216). The Rule modified the previous process for exclusion of air quality data related to exceedances or violations of any National Ambient Air Quality Standards (NAAQS) from regulatory decisions by the EPA. The Rule, codified at 40 CFR 50.14(a)(1)(i), provides that a state may request that the EPA exclude data showing exceedances or violations of any NAAQS due to exceptional events when those events impact data that will be used for one or more of the following EPA actions:

- A. An action to designate an area, pursuant to Clean Air Act section 107(d)(1), or re-designate an area, pursuant to Clean Air Act section 107(d)(3), for a particular national ambient air quality standard;
- B. The assignment or re-assignment of a classification category to a nonattainment area where such classification is based on a comparison of pollutant design values, calculated according to the specific data handling procedures in 40 CFR part 50 for each national ambient air quality standard, to the level of the relevant national ambient air quality standard;
- C. A determination regarding whether a nonattainment area has attained the level of the appropriate national ambient air quality standard by its specified deadline;

- D. A determination that an area has data for the specific NAAQS, which qualify the area for an attainment date extension under the CAA provisions for the applicable pollutant;
- E. A determination under CAA section 110(k)(5), if based on an area violating a national ambient air quality standard, that the state implementation is inadequate under the requirements of Clean Air Act section 110; and
- F. Other actions on a case-by-case basis as determined by the Administrator.

When a state demonstrates to the EPA that “an exceptional event caused a specific air pollution concentration at a particular air quality monitoring location and otherwise satisfies the requirements of this section,” then the EPA “shall exclude data from use in determinations of exceedances and violations” identified in the above list. WDEQ/AQD’s Initial Notification outlined how the potential exceptional events may impact data and regulatory actions and requested that the EPA agree to review the events under provision (F); and therefore, if shown to be caused by exceptional events, the data should be excluded from use in determinations of exceedances and violations.

The EPA understands that the WDEQ considers the exceptional events to be of regulatory significance because of the WDEQ’s reliance on the data to determine compliance with ambient standards, the use of ambient data in WDEQ’s permitting processes, and third party interests.<sup>1</sup> At this time, the EPA has not identified and does not anticipate using the flagged data in any pending EPA regulatory determination, to formulate or support regulation, guidance, or in any other pending EPA decision, position or action; and therefore, does not plan to further review these events for concurrence.<sup>2</sup>

The EPA recommends that WDEQ/AQD postpone the preparation and submission of demonstrations for these potential exceptional event exceedances until such time as the EPA determines that it may use the data for any of the actions listed under provisions (A) through (E) above, or in any other EPA regulatory determination under provision (F) or to formulate or support regulation, guidance, or any other pending EPA decision, position or action unless scientifically relevant and appropriate. The EPA agrees that prior to using the data in a regulatory determination, to formulate or support regulation, guidance or any other pending EPA decision, position or action unless scientifically relevant and appropriate, the EPA Region 8 Office commits to notify and provide WDEQ/AQD with an opportunity to prepare and submit formal exceptional event concurrence requests and demonstrations. And, the EPA will review and make a determination regarding the potential exceptional event exceedances under the requirements of the 2016 Final Rule “Treatment of Data Influenced by Exceptional Events.” (81 Fed. Reg. 68216).

---

<sup>1</sup> The EPA acknowledges that because other state or federal agencies, or third parties, may access and utilize data from the EPA’s Air Quality System (AQS) it is important to flag the data.

<sup>2</sup> The EPA evaluated wind speeds on the days and locations identified in the subject initial notification. Peak sustained wind speeds on most of those days exceed the high wind dust event threshold of 25 mph set forth in 40 CFR 50.14(b)(5)(iii) and are consistent with historical high wind exceptional events. Therefore, the EPA agrees that it is very likely that some or all of these high winds caused or contributed to the monitored PM<sub>10</sub> NAAQS exceedances. However, a concurrence decision also requires a demonstration that satisfies the requirements in 40 CFR 50.14(c)(3) that possible contributing sources implemented reasonable controls on those dates.

In the meantime, and to assist the EPA in assuring that it will not use the data until WDEQ/AQD has had an opportunity to prepare and submit formal exceptional event concurrence requests and demonstrations, the EPA understands the WDEQ/AQD may change the data flag in EPA's Air Quality System (AQS) from an "i" flag to an "r" flag, and may change the AQD's short description to acknowledge this EPA response to WDEQ/AQD's notification.<sup>3</sup> It is also the EPA's understanding that WDEQ/AQD will distribute this EPA response to the impacted industrial facilities.

We are committed to continuing to work with the WDEQ on exceptional events within Wyoming. If you have questions, please feel free to contact me at (303) 312-6416 or you may contact Richard Payton, of my staff, at (303) 312-6439.

Sincerely,

 Expired certificate

X Carl Daly

---

Signed by: CARL DALY

Carl Daly  
Deputy Director  
Air and Radiation Division

---

<sup>3</sup> Because the EPA recommends that the WDEQ/AQD postpone the preparation and submission of demonstrations for these exceedances, this flag change does not trigger any additional requirements for the WDEQ/AQD until such time as the EPA determines that it may use the data for any of the actions listed under provisions (A) through (E) above, or in any other EPA regulatory determination under provision (F) or to formulate or support regulation, guidance, or any other pending EPA decision, position or action unless scientifically relevant and appropriate. The EPA notes that one of the exceedances, on November 2, 2018 at the Ciner Wyoming monitor 56-037-0898, does not currently have any exceptional event flags (I or R series) in AQS.